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April 30, 2003
Date

Rebecca A. Helvik
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Leroy J. Ohlsen et al.

Application No.: 09/839.786

Filed: April 19, 2001

For: SILICON-BASED FUEL CELL ELECTRODE STRUCTURES
AND FUEL CELL ELECTRODE STACK ASSEMBLIES

Examiner: Jonathan Crepeau

Art Unit: 1746

Docket No.: 690089.401C3

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TERMINAL DISCLAIMER

Dear Sir:

The owner, Neah Power Systems, Inc., of 100% interest in the present application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the present application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on co-pending Application No. 09/715,830, filed on November 17, 2000. The owner hereby

agrees that any patent so granted on the present application shall be enforceable only for and during such period that it and any patents granted on the other application are commonly owned. This agreement runs with any patents granted on the present application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the present application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of any patent granted on the other application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

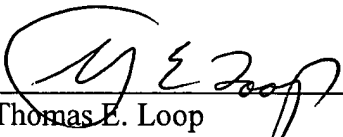
The undersigned is an attorney of record.

Terminal disclaimer fee under 37 CFR 1.20 (d) is included.

Please charge any deficiency in payment and/or credit any overpayment in fees to Deposit Account No. 02-0915.

Respectfully submitted,

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